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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,531

01/16/2004

Atsushi Yoshizawa

US01-03046

5604

21254

7590

09/18/2007

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EXAMINER

BODDIE, WILLIAM

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

09/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/758,531

Applicant(s)

YOSHIZAWA ET AL.

Examiner

William L. Boddie

Art Unit

2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



**SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: the Applicants' arguments are not persuasive.

Initially, on page 10 of the Remarks, the Applicants argue that modifying Hattori with Pichler and the Applicants admitted art would change the principle operation of the Hattori device.

The Examiner must respectfully disagree. In Hattori's case the invention is directed to generating a three dimensional image using, in part, two displays which are stacked on one another. In order to achieve two images whose distances are different the reflector is included in the device. In the Applicant's admitted prior art these two images are perceived as different distances due to their difference in brightness. As such the underlying principle of operation which Hattori is operating under does not seem to be at odds with the 3-D solution put forth by the Applicants' admitted prior art. Additionally, it should be noted that Hattori also expressly discloses, mixing the two images directly without any use of a reflector in figure 1, for example.

On pages 10-11, the Applicants argue that Hattori does not provide a spacer which provides stability for impact shocks. The Applicants acknowledge that indeed Hattori includes a spacer, however Applicants claim that it is not inherent that the spacer will protect the display from an impact shock. As support for this statement, the Applicants point to the description of the spacer which does not disclose that the spacer is rigid, or affixed to the display unit.

The Examiner must again respectfully disagree. First, it should be clear from the figures, especially figures 2-3, of Hattori that the displays are being held in a certain position and distance from each other by the spacer. Irrespective of that fact, however, the spacer will provide at least minimal stability when the display is subjected to an impact shock, especially shocks perpendicular to the display surface. In short the claims do not require any specific amount of stability, lacking such definition any spacer material of substance will inherently offer some amount of impact resistance. The Applicants' claim that "non-porous soft material such as rubber or resin compound" would not offer impact resistance seems incorrect. In the Examiner's estimation any material which is more rigid than the silicone oil would inherently provide for some impact resistance. Additionally, it should be noted that the characteristics put forth by the Applicants, rigid or affixed to the display unit, are not present in the current claims. Finally, it should be noted that Hattori expressly discloses, locating the display in an automobile, which is well-known to experience numerous impact shocks during the normal course of its operation.

In short, it is the Examiner's position that the currently claimed limitation requiring the spacer to provide stability during impact shocks can currently be interpreted very broadly, as the Applicants have not defined the amount or type of stability achieved by the spacer.

On page 11, the Applicants alledge that there is no motivation to combine. The Examiner respectfully disagrees and points the Applicants to page 4 of the previous office action for discussion of the motivation.

On pages 11-12 of the remarks, the Applicants argue that Inoguchi does not disclose a second display unit. Specifically, that the electrochromic device 62 in figure 9 is merely a light shutter and does not qualify as a display screen.

The Examiner must disagree. In the discussion by Inoguchi regarding element 62 in figure 9, element 62 is expressly described as a "low power-consumption type displays." As such Inoguchi is seen as quite clearly disclosing a rear display unit located behind a front display unit and having a display screen.

As shown above the rejections of the claims are seen as sufficient and are thus maintained..